

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-162215-01

Date:

June 28, 2002

LEGEND

Taxpayer =

Entity A =

Entity B =

Dates 1, 2, 3, 4 =

Individual A =

CPA Firm =

Dear :

This replies to your letter dated November 9, 2001, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the necessary elections under § 1.1503-2(g)(2)(i), and the annual certifications required under § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entities A and B during the tax years ended on Dates 1, 2, 3 and 4. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

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Entities A and B became hybrid entity separate units as defined in § 1.1503-2(c)(4) as of the beginning of the tax year ended on Date 1.

Entity A incurred net operating losses during each tax year ended on Dates 1, 2, 3 and 4, and these losses were included in the tax returns of Taxpayer. Entity B incurred a net operating loss during the tax year ended on Date 1, and such loss was included in Taxpayer's tax return for the tax year ended on Date 1.

Individual A is a partner in CPA Firm, and the tax partner on Taxpayer's account. Individual A was responsible for the preparation, review and filing of the U.S. tax returns of Taxpayer, which included its foreign subsidiaries Entities A and B. This responsibility included filing elections, statements, certifications and other attachments with the appropriate U.S. tax returns of Taxpayer for the tax years ended on Dates 1, 2, 3 and 4. The affidavits of Individual A and others together with the facts submitted describe the circumstances that led to the failure to file the elections and annual certifications. Taxpayer is requesting relief before the Internal Revenue Service has discovered Taxpayer's failure to file the elections and annual certifications as required by § 1.1503-2(g)(2).

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the election and annual certification are regulatory elections as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the necessary elections under §

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1.1503-2(g)(2)(i), and the annual certifications required under § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entities A and B during the tax years ended on Dates 1, 2, 3 and 4.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and annual certifications. § 301.9100-1(a). A copy of this ruling letter should be associated with the elections and annual certifications.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this letter is being furnished to your authorized representative.

Sincerely,

/s/ Allen Goldstein
Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)